

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

US RIGHT TO KNOW,

Plaintiff,

v.

Civ. Case No. 1:23-cv-343 KK/LF

NATIONAL NUCLEAR SECURITY
ADMINISTRATION and the
UNITED STATES DEPARTMENT
OF ENERGY,

Defendants.

JOINT STATUS REPORT AND PROVISIONAL DISCOVERY PLAN

Pursuant to FED. R. CIV. P. 26(f), a meeting was held on July 31, 2023 electronically, and was attended by: Matthew D. Hardin for Plaintiff and Manuel Lucero for Defendant.

NATURE OF THE CASE

This case concerns a Freedom of Information Act (FOIA) request that Plaintiff submitted to the government.

AMENDMENTS TO PLEADINGS AND JOINDER OF PARTIES

Plaintiff intends to file: None.

Plaintiff should be allowed until September 30, 2023 to move to amend the pleadings and to join additional parties in compliance with the requirements of Fed. R. Civ. P. 15(a).

Defendant intends to file: None, unless Plaintiff files motions to amend the pleadings or joinder of parties.

Defendants(s) should be allowed 14 days to respond if so needed to Plaintiffs motion to amend the pleadings and to join additional parties in compliance with the requirements of Fed. R. Civ. P. 15(a).

STIPULATIONS

The parties hereto stipulate and agree that venue is properly laid in this District; that the United States District Court for the District of New Mexico has jurisdiction of the parties and the subject matter.

The parties further stipulate and agree that the law governing this case is the Freedom of Information Act, 5 U.S.C. §552 *et seq.*

PLAINTIFF'S CONTENTIONS:

Plaintiff contends that he has a right under the Freedom of Information Act to access the information sought, that no exemption appropriately applies, and that Defendant has unlawfully failed to disclose or otherwise withheld responsive records, reports and documents to the initial FOIA request.

DEFENDANT'S CONTENTIONS

Defendant contends that the records in question, which pertain to the Origins of Covid-19 and SARS-CoV-2 are currently being searched for and will be produced in compliance with the FOIA and pursuant to 5 U.S.C. §552 *et seq.*

PROVISIONAL DISCOVERY PLAN

The parties jointly propose to the Court the following discovery plan:

A trial is not anticipated in this FOIA matter, and parties agree the dispute should be resolved by way of dispositive motions practice. At this time, neither party anticipates seeking any discovery, but the parties will inform the Court or file an appropriate Motion

if that anticipation changes. The parties propose filing joint status reports updating the Court on the status of this case and whether a schedule for dispositive motions briefing should be imposed approximately every 60 days, until such a schedule for dispositive briefing is imposed.

DOCUMENTS

1. All communications between Plaintiff and Defendant regarding the underlying FOIA request.
2. All documents produced by each party in the course of litigation.
3. The underlying FOIA request.
4. All documents responsive to the underlying FOIA request.

PRETRIAL MOTIONS

Plaintiff intends to file: No motions are anticipated at the present time. Plaintiff reserves its right to file motions relating to scheduling of productions if circumstances warrant.

Defendant intends to file: N/A

EXPERTS

Experts are not anticipated.

DISCOVERY

The parties do not currently anticipate that discovery will be necessary, as this is a FOIA lawsuit. Plaintiff reserves the right to seek discovery regarding the scope of Defendant's search and any claimed exemptions, if such discovery becomes warranted as this case develops. In the event that the Court denies summary judgement, Plaintiff reserves the right to seek trial.

ESTIMATED TRIAL TIME

The parties estimate this matter will be resolved based on summary judgement.

SETTLEMENT

The possibility of settlement in this case is considered unknown. The parties prefer to discuss ADR selection with the Court at a scheduling conference.

APPROVED WITHOUT EXCEPTIONS

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